

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
CLERKS OFFICE

ARTHUR A. MANDROS,

2004 SEP 30 P 2:14

Plaintiff,

U.S. DISTRICT COURT
DISTRICT OF MASS.

v.

**BARLETTA ENGINEERING CORP., and
INTERNATIONAL UNION OF
OPERATING ENGINEERS, LOCAL 4,**

Civil Action No. 1:04-cv-11999-REK

Defendants.

ANSWER OF DEFENDANT BARLETTA ENGINEERING CORP.

Co-Defendant Barletta Engineering Corporation (hereinafter "Defendant"), by and through its attorneys, answer the allegations contained in Plaintiff's Complaint as follows:

1. Defendant is without sufficient information or knowledge to form a belief as to the truth of the allegations contained in paragraph 1, and, accordingly, they are denied.
2. Defendant admits the allegations contained in paragraph 2.
3. Defendant admits the allegations contained in paragraph 3.

Facts

4. Defendant admits Plaintiff's date of hire and the project at which he was assigned, and denies the remaining allegations contained in paragraph 4.
5. Defendant denies the allegations contained in paragraph 5.
6. Defendant neither admits nor denies the allegations contained in paragraph 6 of Plaintiff's Complaint as the exhibit speaks for itself.
7. Defendant neither admits nor denies the allegations contained in paragraph 7 of

Plaintiff's Complaint as the exhibit speaks for itself.

8. Defendant neither admits nor denies the allegations contained in paragraph 8 of Plaintiff's Complaint as the exhibit speaks for itself.

9. Defendant neither admits nor denies the allegations contained in paragraph 9 of Plaintiff's Complaint as the exhibit speaks for itself.

10. Defendant neither admits nor denies the allegations contained in paragraph 10 of Plaintiff's Complaint as the exhibit speaks for itself.

11. Defendant neither admits nor denies the allegations contained in paragraph 11 of Plaintiff's Complaint as the exhibit speaks for itself.

12. Defendant neither admits nor denies the allegations contained in paragraph 12 of Plaintiff's Complaint as the exhibit speaks for itself.

13. Defendant neither admits nor denies the allegations contained in paragraph 13 of Plaintiff's Complaint as the exhibit speaks for itself.

14. Defendant neither admits nor denies the allegations contained in paragraph 14 of Plaintiff's Complaint as the exhibit speaks for itself.

15. Defendant neither admits nor denies the allegations contained in paragraph 15 of Plaintiff's Complaint as the exhibit speaks for itself.

16. Defendant neither admits nor denies the allegations contained in paragraph 16 of Plaintiff's Complaint as the exhibit speaks for itself.

17. Defendant neither admits nor denies the allegations contained in paragraph 27 of Plaintiff's Complaint as the exhibit speaks for itself.

Count 1

18. Defendant incorporates by reference its response to paragraphs 1 through 17 as though fully set forth herein.

19. Defendant denies the allegations contained in paragraph 19.

20. Defendant states that the allegations contained in paragraph 20 are directed at a co-defendant and therefore require neither an admission nor denial from it. To the extent an admission are denial are required, the allegations contained in paragraph 20 are denied.

21. Defendant states that the allegations contained in paragraph 21 are directed at a co-defendant and therefore require neither an admission nor denial from it. To the extent an admission are denial are required, the allegations contained in paragraph 21 are denied.

22. Defendant states that the allegations contained in paragraph 22 are directed at a co-defendant and therefore require neither an admission nor denial from it. To the extent an admission are denial are required, the allegations contained in paragraph 22 are denied.

WHEREFORE, Defendant denies that Plaintiff is entitled to any of the relief requested against it and denies each and every allegation not heretofore specifically admitted and pray this Court to dismiss Plaintiff's Complaint and award it costs, fees and any other relief it deems just.

AFFIRMATIVE DEFENSES

1. The Complaint fails to state a claim upon which any relief can be granted.
2. Plaintiff's claims are barred in whole or in part because he has failed to comply with administrative procedures that are a prerequisite to maintaining this action.
3. All actions regarding Plaintiff's employment were taken for legitimate business reasons.

4. Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

5. Plaintiff's claims in whole or in part of preempted by Section 301 of the Labor Management Relations Act.

6. Plaintiff's Complaint is barred in whole or in part because, at all relevant times, the actions of the Defendant was legal, proper, reasonable, and in conformity with all applicable Massachusetts and federal statutory, regulatory, and decisional law.

Respectfully submitted,

BARLETTA ENGINEERING CORP.

By Its Attorneys,

MORGAN, BROWN & JOY, LLP
One Boston Place
Boston, Massachusetts 02108
(617) 523-6666


Joseph P. McConnell (BBO No. 566412)

Date: September 30, 2004

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document was served upon counsel for plaintiff, Brian T. Hatch, Esq., 8 North Main Street, Suite 403, Attleboro, Massachusetts 02703, by US mail and facsimile, and to counsel for co-defendant, Mary T. Sullivan, Esq. and Indira Talwani, Esq., Segal, Roitman & Coleman, 11 Beacon Street, Suite 500, Boston, Massachusetts 02108, by first-class U.S. mail, this 30th day of September 2004.

